IN THE UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF NORTH CAROLINA
No. 1:07 CV 00667

ROBERT D. COBB	)	
Plaintiff,	)	
v.	)	**ANSWER**
FOX NEWS NETWORK, LLC	)	
Defendant,	)	

Defendant Fox News LLC. ("FNC"), by and through its undersigned counsel and pursuant to Rules 7 and 8 of the Federal Rules of Civil Procedure, responds as follows to the Complaint filed by Plaintiff Robert D. Cobb ("Plaintiff"):

RESPONSES TO THE PLAINTIFF'S NUMBERED ALLEGATIONS

1. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 1 of the Complaint.

2. Admitted. By way of a further response, defendant states that it is a Delaware limited liability company that has its principal place of business in New York, New York.

3. Admitted.

4. Denied.

5. Admits that on June 21, 2007, an article entitled "40-Year-Old Teacher Marries 16-Year Old Student" (the "Article") was posted on www.foxnews.com and, except as so admitted, denies each and every remaining allegation contained in Paragraph 5 of the Complaint.

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6. Denied.

7. Denied..

8. Denied.

9. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 9 of the Complaint since those allegations are vague and Defendant does not understand what is meant by "[t]he title on the picture on the front page of foxnews.com."

10. Admits that, in order to read the Article, viewers of the www.foxnews.com website clicked on a link near the words "Does She Call Him Coach?"

11. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 11 of the Complaint since those allegations are vague and Defendant does not understand what is meant by "clicked on the story" and "directed."

12. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 12 of the Complaint.

13. Admits, upon information and belief, that a 40-year-old teacher named Brenton Wuchae married a 16-year-old named Windy Hager. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 13 of the Complaint.

14. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 14 of the Complaint, except denies that it accused Plaintiff of being romantically involved with Windy Hager.

15. Plaintiff purports to state a legal conclusion in Paragraph 15 of the Complaint to which no response is required and, to the extent a response is required, Defendant denies the allegations contained in Paragraph 15 of the Complaint.

16. Admitted that the Article was about an incident in North Carolina; otherwise, denied.

17. Denied.

18. Denied.

19. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 19 of the Complaint.

20. Denied.

21. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 21 of the Complaint.

22. Denied..

23. Denied..

24. Denied.

25. Denied.

26. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 26 of the Complaint.

27. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 27 of the Complaint.

28. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 28 of the Complaint.

29. Denied.

30. Defendant denies that Plaintiff completed a maze of automated voice responses and menu options to finally obtain a live person at Fox News. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in Paragraph 30 of the Complaint.

31. Denied.

32. Denied.

33. Denied.

34. Defendant lacks knowledge or information sufficient to form a belief as to the truth of the allegations contained in Paragraph 34 of the Complaint.

35. Admitted.

FOR A RESPONSE TO "FIRST CLAIM FOR RELIEF"
(Negligence)

36. Defendant repeats and incorporates by reference its responses to Paragraphs 1 through 35.

37. Denied.

38. Denied.

39. Denied.

40. Denied.

FOR A RESPONSE TO "SECOND CLAIM FOR RELIEF"
(Punitive Damages)

41. Defendant repeats and incorporates by reference its responses to Paragraphs 1 through 40.

42. Denied.

43. Denied.

44. Denied.

45. Denied.

46. Denied.

FOR A RESPONSE TO "THIRD CLAIM FOR RELIEF"
(Libel Per Se)

47. Defendant repeats and incorporates by reference its responses to Paragraphs 1 through 46.

48. Denied.

49. Denied.

50. Denied.

51. Denied.

AFFIRMATIVE DEFENSES

FNC makes the following affirmative defenses without admitting that FNC bears the burden of persuasion or presentation of evidence on each or any of these matters.

FIRST AFFIRMATIVE DEFENSE
(Failure to State a Claim)

The Complaint fails to state a claim upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE
(No Duty)

FNC did not owe Plaintiff any duty.

THIRD AFFIRMATIVE DEFENSE
(No Breach)

FNC did not breach any duty it owed to Plaintiff.

FOURTH AFFIRMATIVE DEFENSE
(Negligence Claim Barred By the First Amendment)

Plaintiff's negligence claim is barred by the First and Fourteenth Amendments to the Constitution of the United States.

FIFTH AFFIRMATIVE DEFENSE
(Constitution Bars Punitive Damages)

Plaintiff's punitive damages claim is barred by the First Amendment and the due process clause of the United States Constitution.

SIXTH AFFIRMATIVE DEFENSE
(Punitive Damages Barred Because no Outrageous Conduct)

Plaintiff's punitive damages claim is barred because Plaintiff cannot show outrageous conduct or an evil motive.

SEVENTH AFFIRMATIVE DEFENSE
(Punitive Damages Barred Because no Actual Malice)

Plaintiff's punitive damages claim is barred because Plaintiff cannot show actual or common law malice.

EIGHTH AFFIRMATIVE DEFENSE
(Not Substantially False)

Plaintiff's libel *per se* claim is barred because Plaintiff cannot show that the Article is substantially false.

NINTH AFFIRMATIVE DEFENSE
(Not Defamatory *per se*)

Plaintiff's libel *per se* claim is barred because Plaintiff cannot show that the Article is defamatory *per se.*

TENTH AFFIRMATIVE DEFENSE
(Lack of Actual Malice)

Plaintiff's libel *per se* claim is barred because FNC did not have knowledge of the falsity of the Article nor did FNC act with reckless disregard as to the falsity of the Article.

ELEVENTH AFFIRMATIVE DEFENSE
(Constitutional Protections)

Plaintiff's libel *per se* claim is barred because the Article is protected by the First and Fourteenth Amendments to the United States Constitution and by the New York and North Carolina State Constitutions.

TWELFTH AFFIRMATIVE DEFENSE
(Lack of Injury)

Plaintiff's libel *per se* claim is barred to the extent Plaintiff has not suffered any injury proximately caused by FNC.

THIRTEENTH AFFIRMATIVE DEFENSE
(Mitigation of Damages)

If Plaintiff sustained any injury or damages, FNC mitigated such injury or damages because it published a correction.

FOURTEENTH AFFIRMATIVE DEFENSE
(Reservation of Rights)

FNC reserves the right to assert and rely upon other defenses that become available or appear during the course of this action.

WHEREFORE, Defendant Fox News Network, LLC respectfully prays unto the court that

1. The plaintiff's Complaint be dismissed, with prejudice, and plaintiff have and take nothing of the defendant;

2. The costs of this action be taxed against the plaintiff; and

3. The court provide the defendant with such other relief as this Court deems appropriate.

Respectfully submitted this the 11th day of September, 2007.

/s/______________________________
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Certificate of Service

I certify that on September 11, 2007, I electronically filed the foregoing Answer with the Clerk of Court using the CM/ECF system which will send notification of such filing to:

Andrew H.R. Brown
Benson & Brown, PLLC

/s/ Hugh Stevens